

19.501

representative in carrying out the activities described in (c) (1) through (7) of this section and to assist the SBA procurement center representatives (see FAR 19.402).

[51 FR 19715, May 30, 1986, as amended at 54 FR 25062, June 12, 1989]

Subpart 19.5—Set-Asides for Small Business

19.501 General.

(a) The purpose of small business set-asides is to award certain acquisitions exclusively to small business concerns. A “set-aside for small business” is the reserving of an acquisition exclusively for participation by small business concerns. A small business set-aside may be open to all small businesses. A small business set-aside of a single acquisition or a class of acquisitions may be total or partial.

(b) The determination to make a small business set-aside may be unilateral or joint. A unilateral determination is one that is made by the contracting officer. A joint determination is one that is recommended by the Small Business Administration (SBA) procurement center representative (or, if a procurement center representative is not assigned, see 19.402(a)) and concurred in by the contracting officer.

(c) For acquisitions exceeding the simplified acquisition threshold, the requirement to set aside an acquisition for HUBZone small business concerns (see 19.1305) takes priority over the requirement to set aside the acquisition for small business concerns.

(d) The small business reservation and set-asides requirements at 19.502-2 do not preclude award of a contract to a service-disabled veteran-owned small business concern under Subpart 19.14.

(e) The contracting officer shall review acquisitions to determine if they can be set aside for small business, giving consideration to the recommendations of agency personnel having cognizance of the agency’s small business programs. The contracting officer shall document why a small business set-aside is inappropriate when an acquisition is not set aside for small business, unless a HUBZone or service-disabled veteran-owned small business set-aside

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or HUBZone or service-disabled veteran-owned small business sole source award is anticipated. If the acquisition is set aside for small business based on this review, it is a unilateral set-aside by the contracting officer. Agencies may establish threshold levels for this review depending upon their needs.

(f) At the request of an SBA procurement center representative, (or, if a procurement center representative is not assigned, see 19.402(a)) the contracting officer shall make available for review at the contracting office (to the extent of the SBA representative’s security clearance) all proposed acquisitions in excess of the micro-purchase threshold that have not been unilaterally set aside for small business.

(g) To the extent practicable, unilateral determinations initiated by a contracting officer shall be used as the basis for small business set-asides rather than joint determinations by an SBA procurement center representative and a contracting officer.

(h) All solicitations involving set-asides must specify the applicable small business size standard and NAICS code (see 19.303).

(i) Except as authorized by law, a contract may not be awarded as a result of a small business set-aside if the cost to the awarding agency exceeds the fair market price.

[48 FR 42240, Sept. 19, 1983]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting section 19.501, see the List of CFR Sections Affected which appears in the Finding Aids section of the printed volume and on GPO Access.

19.502 Setting aside acquisitions.

19.502-1 Requirements for setting aside acquisitions.

(a) The contracting officer shall set aside an individual acquisition or class of acquisitions for competition among small businesses when—

(1) It is determined to be in the interest of maintaining or mobilizing the Nation’s full productive capacity, war or national defense programs; or

(2) Assuring that a fair proportion of Government contracts in each industry category is placed with small business concerns; and the circumstances described in 19.502-2 or 19.502-3(a) exist.